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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,778	07/28/2006	Hajime Mackawa	MAT-8872US	9923
53473	7590	01/14/2011		
RATNERPRESTIA P.O. BOX 980 VALLEY FORGE, PA 19482			EXAMINER	
			BENOIT, ESTHER	
			ART UNIT	PAPER NUMBER
			2453	
			MAIL DATE	DELIVERY MODE
			01/14/2011 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/587,778

Applicant(s)

MAEKAWA ET AL.

Examiner

ESTHER BENOIT

Art Unit

2453

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 33-59.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Krista M. Zele/
Supervisory Patent Examiner, Art Unit 2453

Continuation of 11. does NOT place the application in condition for allowance because: The arguments have been considered but they are not persuasive. The applicants are arguing in substance the following: The prior art of record-O'Neill, does not disclose the limitation of claim 42 "wherein the sustain data received by the data processing apparatus indicates a connection time for the tunnel communication between the data processing apparatus and the other data processing apparatus exclusive of the access apparatus" because the prior art of record discloses the access apparatus forwards packets between the two data processing apparatus. The Examiner respectfully disagrees. According to paragraph [0070], O'Neill discloses that an alternative method of performing a tunneling connection, is to exclude the access node from either the signaling or tunneling method. Figure 10 shows the bypassing of the access nodes from the end node to the home mobility agent node. The applicants are arguing that the access nodes are essential for performing the tunneling communication however, O'Neill lets us know these nodes are passed over. Therefore, this suggests and confirms that the access nodes do not perform any operations for tunneling a connection between the end node and home mobility agent node. Combining the teachings of O'Toole with the teachings of O'Neill would yield an operable invention because the teachings of O'Neill modifies the teachings of O'Toole to suggest that an access apparatus does not have to be involved in the tunneling connection. The applicants argue that the reference King does not disclose using a data processing apparatus to judge the cancellation of the tunnel communication. The Examiner respectfully disagrees. King discloses that a proxy server makes the determination that a tunnel communication needs to be terminated based off of an unsecure request received from a mobile device [0030].